



Wyoming State Bar Judicial Advisory Poll, 2008

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Wyoming State Bar Judicial Advisory Poll, 2008

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1. Introduction

In the spring of 2008, the Wyoming State Bar commissioned the Wyoming Survey & Analysis Center (WYSAC) at the University of Wyoming to administer the 2008 Judicial Advisory Poll. This document presents the results of the tabulations and analyses performed.

2. Organization of this Report

This report is organized in the following manner:

- Section 3 is a brief narrative of the background and purpose of the Judicial Advisory Poll and an explanation of the dissemination of the results.
- Section 4 is a concise account of the methodology and timeline used by WYSAC to conduct the poll. It contains an example of a suggested interpretation of the numeric ratings, along with a copy of the questionnaire and its accompanying instructions.
- Section 5 relays the condensed results of support for retention for all relevant judicial officials in the “Support for Judicial Officials Standing for Retention” table. Also included is the “Comparison of Ratings by Judicial Level” table, which presents the means for all items in the poll organized by judicial level (Supreme, Federal, District, and Circuit).
- Section 6 presents the detailed ratings of individual judicial officials, grouped by judicial level and then, within each level, arranged alphabetically according to the judicial official’s last name.

3. Background

Judicial evaluation polls are used by Bar associations to provide feedback to judicial officials about their performance on the bench and to help the public make more informed judgments in judicial elections. Guidelines established by the American Bar Association (ABA) state that the primary goal of judicial evaluation is “...to improve the performance of individual judges and the judiciary as a whole.”

The Wyoming State Bar undertook its first judicial evaluation poll in 1976 and has completed one each election year since. The goals and uses of the poll conform to the ABA guidelines as well as to the practices of other Bar associations. The evaluations received for Wyoming Judges in the 2008 Wyoming Judicial Advisory Poll will be distributed as follows.

First, this report will be sent to all Wyoming Judges that were evaluated. In addition to the information contained in the general report, individual judicial officials will receive any written comments submitted by members of the Wyoming State Bar responding to this poll regarding their

work on the bench. Comments about judges will be released only to the specific judge that they were made about. These comments are not included in the report sent to the Wyoming State Bar.

Second, all data results will be released to the media prior to the election, and also published in the *Wyoming Lawyer*. No comments will be released to anyone but the specific judge that they were made about.

4. Methods

4.1. Survey Administration

The Judicial Advisory Poll is conducted jointly by the Wyoming State Bar and WYSAC. Sharon Wilkinson, Communications Director of the Wyoming State Bar, coordinated the project activities for the Bar. This year's poll was conducted as a web-based survey and employs the same simplified three point scale as used in 2006. WYSAC revised and updated the questionnaire to coincide with the current judiciary. WYSAC received an electronic list with contact information of all Wyoming attorneys that are members of the Wyoming State Bar, including email addresses, wherever available. There were 1496 Wyoming attorneys on that list. WYSAC set up the survey as a web-based survey and uploaded it on one of the WYSAC servers.

On August 7th, 2008 Sharon Wilkinson sent an email to all attorneys in the State Bar to inform them of the upcoming email contact by WYSAC. An email, with an invitation to participate in the poll, was sent by WYSAC to all 1361 attorneys who had unique email addresses on file by August, 11th. Twenty-five of the emails came back as undeliverable mail and there were 135 attorneys for whom there were no unique email addresses on file. To those, invitation letters were sent via USPS mail. Reminder emails, on August 18th, and USPS reminder letters, on August 20th, were sent to all attorneys who had not responded. Two more email reminders were sent to non-respondents on August 25th and September 2nd. One additional reminder letter was mailed on August 28th.

The survey was closed on September 9th, thus all attorneys were given four weeks to respond to the poll. The database was then exported into a format suitable for data analysis. A total of 694 completed surveys were received by the cut-off date. From the original contact list, 2 attorneys had no email addresses and physical mailing addresses could not be obtained, 22 attorneys responded to explain that they do not feel prepared to evaluate any Wyoming judge, 8 refused to respond for various reasons, including lack of trust in the confidentiality of the survey. The total of 694 completions brings the response rate to 47%. The results were then tallied and they are presented in the tables in *Section 5. Group Results* and *Section 6. Individual Results*.

4.2. Interpreting the Numeric Ratings

The rating system, used in this year's poll, was a three point scale, where 3 stands for "Highly Approve", 4 stands for "Approve" and 5 stands for "Do not Approve". Thus, lower average scores are better than higher scores.

The 2008 Wyoming Judicial Advisory Poll report is based upon completed questionnaires that were received at WYSAC by September 9th, 2008. Individual reports for each judicial official are based on the completed responses on each characteristic if and only if the Bar member responding had affirmed (in an answer to a previous question) that they had appeared before the respective judicial official during the past 24 months.

In the case of Supreme Court Justices, evaluations were also allowed based on reading written opinions from those Justices and Bar members were asked to report the basis for their evaluations of the Justices (i.e., reading of judicial decisions or appearances before the court).

One of the questions Bar members were asked about Wyoming Judicial Officials was whether they favor or oppose the retention of a particular judge. In all cases, they were asked this question only if a particular judge was indeed standing for retention.

The following chart "Interpreting the Numeric Ratings" illustrates the summary evaluations received by a hypothetical Judge Jones and outlines suggestions for interpreting the evaluations. Interpreting the numeric ratings can be approached in two ways:

One. Looking at the average scores and how they compare to the average scores of peer judicial officials on the Wyoming Supreme Court, the Federal District Court, the State District Court, or the County Courts.

Two. Looking at the percentage distributions of the evaluation responses of "Highly Approve" or "Approve," and "Do Not Approve".

Consider the situation where the average score for State District Court judges on "open-minded and impartial in judicial matters" is 3.6 and one judge scores 3.2 and another scores 4.1 on this item. This means that the first judge scored quite a bit better on that particular item than the second.

In conclusion, a judicial official's response to receiving more "Do Not Approve" scores than their peers might be to pursue continuing judicial education programs or to become more attentive to the expression of certain attitudes or behaviors that may be troublesome to attorneys, litigants, and witnesses.

Is there a threshold below which a judicial official's evaluation scores should not drop? Based upon a review of Wyoming judicial officials' ratings over the years, it might be suggested that anyone receiving a score of 4.1 or greater would be advised to identify factors relating to the evaluation and then to pursue a plan of remediation. Obviously, a judicial official cannot please all attorneys all the time. But to dismiss negative evaluations as unfair or inaccurate will prevent one from using the information to address problems and improve performance.

WYOMING STATE BAR JUDICIAL ADVISORY POLL, 2008

Example

DISTRICT COURT		Judge Jones						
	Number of Respondents	No Opinion	Highly Approve	Approve	Do Not Approve	Average Scores		
						Judge Jones	District Court	
Knowledge of the law.	59	3.3%	61.2%	28.2%	7.3%	3.12	3.62	
Open-minded and impartial in judicial matters.	58	4.9%	39.2%	29.2%	26.7%	3.50	3.63	
Attentive to arguments of counsel.	58	1.2%	28.3%	44.3%	26.2%	3.49	3.65	
Courteous and polite.	61	5.1%	19.4%	65.9%	9.6%	4.01	3.55	
Addresses and answer issues squarely posed.	61	2.5%	45.3%	34.0%	18.2%	3.87	3.52	
Industry/prompt in performing judicial duties.	62	4.3%	55.8%	24.1%	15.8%	3.23	3.46	
Participates in law-related professional activities.	59	2.3%	34.5%	38.6%	24.6%	3.90	3.61	
Judge has integrity and ethics to carry out the duties of the judicial office.	60	2.6%	43.2%	29.1%	25.1%	3.38	3.59	
Application of rules of evidence and procedures.	57	4.5%	52.4%	30.2%	12.9%	3.74	3.54	
Decisions are well reasoned and clearly expressed.	60	3.7%	57.3%	16.5%	22.5%	3.64	3.47	
Well prepared for court proceedings.	60	0.8%	22.1%	30.6%	46.5%	3.59	3.39	
Do you <i>Favor</i> or <i>Oppose</i> the retention of this judge for another term?	61					<i>Favor</i>	82.6%	80.4%
						<i>Oppose</i>	17.4%	19.6%

GUIDELINES

Judge Jones wants:

- An average score better (lower) than his peers for all questionnaire ratings.
- A majority of “Highly Approve” and “Approve” ratings.
- Few, if any, “Do Not Approve” ratings.

The “best” rating Judge Jones received on the eleven judicial characteristics was for “Knowledge of the law.” The scale employed uses 3 for “Highly Approve”, 4 for “Approve”, and 5 for “Do Not Approve.” Thus, lower average scores are better than higher scores.

Judge Jones was evaluated by 61 attorneys on “Courteous and polite” and 59 on “Knowledge of the law.” These numbers vary since some did not rate him on all characteristics.

Also, if an attorney failed to affirm that s/he had appeared before the judge during the prior 24 months, they did not rate that judge.

On “Knowledge of the law” only 7.3% did not approve of Judge Jones. And his overall average of 3.12 on this item is better than his District Court peers’ average of 3.62.

Judges standing for retention have an additional row indicating the percent of respondents *favoring* and *opposing* their retention. Also included is an average comparison percentage calculated for all judges in the same court system up for retention.

4.3. Questionnaire

Welcome to the 2008 Judicial Advisory Poll

The Judicial Advisory Poll is administered every two years by the Wyoming State Bar as a service to Wyoming voters. It is also hoped that the results may assist judges by giving them some constructive feedback from the legal community.

You will be asked to evaluate each judge and justice **before whom you have appeared in the past 24 months**. You may also evaluate Supreme Court Justices on the basis of having read their written opinions. For each judge who will stand for retention in November, you will be asked to indicate whether you favor or oppose their retention.

Finally, if you rate a judge particularly high or low, please include your comments explaining that rating. All written comments will remain completely confidential.

If you choose not to evaluate a particular justice or judge, you may leave their page blank and skip over to the next page by clicking the "continue" button.

First, please tell us how much you approve or disapprove of the **Wyoming Supreme Court Justices** on the following items.

WYOMING SUPREME COURT

- E. James Burke
- Michael Golden
- William U. Hill
- Marilyn S. Kite
- Barton R. Voigt

JUSTICE: [Insert Name]	No Opinion	Highly Approve	Approve	Do Not Approve
Knowledge of the law.				
Judicial opinions are well reasoned and clearly expressed.				
Open-minded and impartial in judicial matters.				
Well prepared for oral arguments.				
Attentive to arguments of counsel.				
Courteous and polite.				
Addresses and answers issues squarely posed.				
Industry/prompt in performing judicial duties.				
Participates in law-related professional activities.				
Judge has integrity and ethics to carry out the duties of the judicial office.				

	Written Opinion	Appearance
Was your rating based on an appearance before the Court, or simply based on a written opinion?		

Supreme Court Justices up for retention this year are:

1. William U. Hill

	Favor	Oppose
Do you favor or oppose the retention of this judicial official for another term?		

Do you have any additional comments about Justice [Insert Name]? Comments are solicited strictly for the benefit of the judges to help them improve their performance. Please provide any comments you believe would be of assistance to the judge in the continued performance of his/her duties.

Here is a list of the **FEDERAL COURT JUDGES**. Please mark all before whom you have appeared in the past 24 months.

- Clarence A. Brimmer
- William F. Downes
- Alan B. Johnson
- Peter J. McNiff

Next, please tell us how much you approve or disapprove of the **FEDERAL COURT JUDGES** on the following items.

FEDERAL COURT

Judge: [Insert Name]	No Opinion	Highly Approve	Approve	Do Not Approve
Knowledge of the law.				
Open-minded and impartial in judicial matters.				
Attentive to arguments of counsel.				
Courteous and polite.				
Addresses and answer issues squarely posed.				
Industry/prompt in performing judicial duties.				
Participates in law-related professional activities.				
Judge has integrity and ethics to carry out the duties of the judicial office.				
Application of rules of evidence and procedures.				
Decisions are well reasoned and clearly expressed.				

Do you have any additional comments about Judge [Insert Name]? Comments are solicited strictly for the benefit of the judges to help them improve their performance. Please provide any comments you believe would be of assistance to the judge in the continued performance of his/her duties.

Here is a list of the **WYOMING DISTRICT COURT JUDGES**. Please mark all before whom you have appeared in the past 24 months.

- Peter G. Arnold
- John C. Brooks
- Steven R. Cranfill
- Michael K. Davis
- Michael N. Deegan
- Jeffrey A. Donnell
- John G. Fenn
- Edward L. Grant
- Nancy J Guthrie
- Nena R. James
- Keith G. Kautz
- David B. Park
- John R. Perry
- Dan R. Price, II
- Jere A. Ryckman
- Dennis L. Sanderson
- Robert E. Skar
- Scott W. Skavdahl
- W. Thomas Sullins
- Wade E. Waldrip
- Norman E. Young

Next, please tell us how much you approve or disapprove of the **DISTRICT COURT JUDGES** before whom you have appeared in the past 24 months on the following items.

DISTRICT COURT

Judge: [Insert Name]	No Opinion	Highly Approve	Approve	Do Not Approve
Knowledge of the law.				
Open-minded and impartial in judicial matters.				
Attentive to arguments of counsel.				
Courteous and polite.				
Addresses and answer issues squarely posed.				
Industry/prompt in performing judicial duties.				
Participates in law-related professional activities.				
Judge has integrity and ethics to carry out the duties of the judicial office.				
Application of rules of evidence and procedures.				
Decisions are well reasoned and clearly expressed.				

District Court Judges up for retention this year are:

1. John C. Brooks
2. Steven R. Cranfill
3. John G. Fenn
4. Nancy J Guthrie
5. Nena R. James
6. John R. Perry
7. Jere A. Ryckman
8. Dennis L. Sanderson
9. W. Thomas Sullins

	Favor	Oppose
Do you favor or oppose the retention of this judicial official for another term?		

Do you have any additional comments about Judge [Insert Name]? Comments are solicited strictly for the benefit of the judges to help them improve their performance. Please provide any comments you believe would be of assistance to the judge in the continued performance of his/her duties.

Here is a list of the **WYOMING CIRCUIT COURT**. Please mark all before whom you have appeared in the past 24 months.

- I. Vincent Case, Jr.
- Randal R. Arp
- Bruce B. Waters
- Denise Nau
- Roberta A. Coates
- Thomas T.C. Campbell
- J. John Sampson
- Curt A. Haws
- Robert B. Denhardt
- Timothy C. Day
- Wesley A. Roberts
- Jane Eakin
- Robert A. Castor
- H. Steven Brown
- Michael E. Huber
- Michael N. Patchen
- Fred R. Dollison
- Terrill R. Tharp
- William S. Edwards
- Daniel L. Forgey
- E. Victoria Schofield
- Frank J. Zebre
- Michael L. Greer

Next, please tell us how much you approve or disapprove of the **CIRCUIT COURT JUDGES** before whom you have appeared in the past 24 months on the following items.

CIRCUIT COURT

Judge: [Insert Name]	No Opinion	Highly Approve	Approve	Do Not Approve
Knowledge of the law.				
Open-minded and impartial in judicial matters.				
Attentive to arguments of counsel.				
Courteous and polite.				
Addresses and answer issues squarely posed.				
Industry/prompt in performing judicial duties.				
Participates in law-related professional activities.				
Judge has integrity and ethics to carry out the duties of the judicial office.				
Application of rules of evidence and procedures.				
Decisions are well reasoned and clearly expressed.				

Circuit Court Judges up for retention this year are:

- 1. H. Steven Brown
- 2. I. Vincent Case, Jr.
- 3. Timothy C. Day
- 4. Robert B. Denhardt
- 5. Fred R. Dollison
- 6. William S. Edwards
- 7. Daniel L. Forgey
- 8. Michael L. Greer
- 9. Curt A. Haws
- 10. Michael E. Huber
- 11. J. John Sampson
- 12. Terrill R. Tharp

	Favor	Oppose
Do you favor or oppose the retention of this judicial official for another term?		

Do you have any additional comments about Judge [Insert Name]? Comments are solicited strictly for the benefit of the judges to help them improve their performance. Please provide any comments you believe would be of assistance to the judge in the continued performance of his/her duties.

That is the end of our survey. Thank you for your cooperation!

5. Group Results

5.1. Support for Judicial Officials Standing for Retention (Percentages)

Support for Judicial Officials Standing for Retention (Percentages)

	FAVOR	OPPOSE	Number Responding
SUPREME COURT			
William U. Hill	84.1%	15.9%	378
DISTRICT COURT			
John C. Brooks	94.1%	5.9%	119
Steven R. Cranfill	74.8%	25.2%	107
John G. Fenn	96.7%	3.3%	92
Nancy J Guthrie	85.4%	14.6%	137
Nena R. James	78.1%	21.9%	73
John R. Perry	94.6%	5.4%	92
Jere A. Ryckman	90.8%	9.2%	87
Dennis L. Sanderson	77.3%	22.7%	88
W. Thomas Sullins	88.4%	11.6%	95
CIRCUIT COURT			
H. Steven Brown	91.3%	8.7%	46
I. Vincent Case	68.0%	32.0%	25
Timothy C. Day	91.1%	8.9%	45
Robert B. Denhardt	69.6%	30.4%	23
Fred R. Dollison	91.7%	8.3%	36
William S. Edwards	71.9%	28.1%	32
Daniel L. Forgey	80.8%	19.2%	26
Michael L. Greer	88.2%	11.8%	17
Curt A. Haws	94.3%	5.7%	35
Michael E. Huber	87.0%	13.0%	46
J. John Sampson	88.2%	11.8%	51
Terrill R. Tharp	76.3%	23.7%	38

5.2. Comparison of Ratings by Judicial Level (Means)

Comparison of Ratings by Judicial Level (Means)

Means based on a 3 point scale (3 =Highly Approve, 4 =Approve, 5 = Do not Approve)

	Supreme Court	Federal Court	State District Court	State Circuit Court	Average of all Courts
Knowledge of the law.	3.61	3.46	3.58	3.68	3.58
Judicial opinions are well reasoned and clearly expressed.	3.67	N/A	N/A	N/A	3.67
Open-minded and impartial in judicial matters.	3.71	3.59	3.56	3.70	3.64
Well prepared for oral arguments.	3.53	N/A	N/A	N/A	3.53
Attentive to arguments of counsel.	3.53	3.46	3.46	3.55	3.50
Courteous and polite.	3.50	3.33	3.40	3.44	3.42
Addresses and answers issues squarely posed.	3.64	3.51	3.54	3.61	3.58
Industry/prompt in performing judicial duties.	3.56	3.63	3.52	3.56	3.57
Participates in law-related professional activities.	3.52	3.42	3.44	3.48	3.47
Judge has integrity and ethics to carry out the duties of the judicial office.	3.46	3.28	3.37	3.47	3.40
Application of rules of evidence and procedures.	N/A	3.48	3.58	3.72	3.59
Decisions are well reasoned and clearly expressed.	N/A	3.54	3.61	3.69	3.61
Well prepared for court proceedings.	N/A	3.48	3.49	3.57	3.51

6. Individual Results

Individual results are attached on the following pages.